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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,565	08/19/2003	Albert L. Lee IV	28349.00	4928
22465	7590	06/15/2005		
PITTS AND BRITTIAN P C P O BOX 51295 KNOXVILLE, TN 37950-1295			EXAMINER STONE, JENNIFER A	
			ART UNIT 2636	PAPER NUMBER
DATE MAILED: 06/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/643,565

Applicant(s)

LEE, ALBERT L.

Examiner

Jennifer A Stone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-11 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 14-24 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. The drawing was received on May 3, 2005 and is acceptable; however, the entire set of drawings needs to be submitted as replacement drawings. Please fax the entire set of drawings to (703) 872.9306.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565) and further in view of Tones (US 4,349,809).

For claim 1, Lee discloses (in the "Background of Invention") a conventional sporting dog locator that comprises a cylindrical-shaped, free-moving and electrically conductive mass member vibration switch that is in electrical contact with the sidewall of an enclosure (parag 0003, Ins 2-7). As disclosed by Lee, the sidewall of the enclosure is electrically grounded and a single electrical contact is disposed within the enclosure at one end of the cylindrical-shaped switch (parag 0003, Ins 7-9). However, the prior art admitted by Lee does not disclose more than one electrical contact. Tones, on the other hand, discloses a housing (Fig. 2, item 16); a vibration switch disposed within said housing (col 2, Ins 19-26; Fig. 3, item 36 and 44), said vibration switch comprising an

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enclosure whose sidewall is electrically conductive (col 3, lns 10-13), said vibration switch comprising a mass member that is electrically conductive and disposed within said enclosure (col 2, lns 19-22), said vibration switch comprising a first electrical contact disposed within said enclosure (Fig. 3, item 44) and a second electrical contact disposed within said enclosure (Fig. 3, item 44), said first electrical contact and said second electrical contact electrically insulated from said sidewall (col 3, lns 41-45); and a communication device responsive to said vibration switch (col 5, lns 26-33; Fig. 4, items 22a-d, 18). It would have been obvious to one of ordinary skill in the art, at the time the invention was made to use more than one electrical contact to avoid false readings (col 1, lns 50-57). Even though Tomes discloses a vibration switch for a vehicle, vibration switches are used for many applications to predict the behavior or activity of people, vehicles, and animals. When such activity reaches or exceeds an extreme limit or threshold, an alarm or signal is emitted to notify a user of a significant event such as to advise a hunter of the direction of his sports dog or to advise a driver of an unsafe driving condition (col 1, lns 7-11).

For claim 7, the vibration switch disclosed in prior art admitted by Lee does not include a fluid-tight seal.

For claim 9, the prior art admitted by Lee discloses a sound generating communication device (parag 0002, last 3 lines).

4. Claims 2, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565) and Tomes (US 4,349,809), further in view of Sloan et al. (US 3,336,530).

For claim 2, the prior art admitted by Lee does not disclose a processing device; however, Sloan discloses a processing device in electrical communication with a vibration switch and a communication device, said processing device activating the communication device in response to said vibration switch (col 3, Ins 19-29). The modulator (Fig. 2, item 22) and oscillator (Fig. 2, item 24) comprise the processing device. It would have been obvious to include a processing device so that data is accurately transmitted from one communication device to another in a timely manner.

For claim 10, the prior art admitted by Lee does not disclose a transmitter/receiver combination; however, Sloan discloses a transmitter/receiver combination whereby the receiver is accessible by a handler (col 2, Ins 24-30; Fig. 2). It would have been obvious to include a transmitter/receiver combination to provide users the technology for wireless communication without the hindrance of wires.

For claim 11, the prior art admitted by Lee discloses neither a dog nor a dog's collar; however, Sloan discloses a housing that includes a collar bracket that receives a dog's collar such that said locator device is carried by the dog (col 4, Ins 2-6; Fig. 4, item 12). It would have been obvious to carry the housing on a collar in order to predict the behavior or activity of an animal.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565), Tomes (US 4,349,809), and Sloan et al. (US 3,336,530), as applied to claim 2, and further in view of and further in view of Vogt (US 4,853,685).

The prior art admitted by Lee does not disclose the processing device to perform the task of debouncing; however, Vogt discloses a transmitter or receiver to include a

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debouncing circuit (col 2, lns 13-18). It would have been obvious to include a debouncing circuit with a processing device to reduce false alarms created by multiple switching states.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Tomes (US 4,349,809), as applied to claim 1, and further in view of Murai (US 4,234,876).

The prior art admitted by Lee does not disclose the switch to be grounded; however, Murai discloses a grounded switching device (col 5, lns 8-10). It would have been obvious to include a grounded vibration switch to cease the oscillating operation.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Tomes (US 4,349,809), as applied to claim 1, and further in view of Grassano (US 4,681,303).

The prior art admitted by Lee does not disclose a fluid-tight seal; however, Grassano discloses this feature (Fig. 3, items 32' and 75; col 6, lns 31-37). It would have been obvious to include a fluid-tight seal in order to protect the electrical elements from the environment.

8. Claims 14, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 10/643,565) and further in view of Tomes (US 4,349,809).

For claim 14, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 1 as stated above. In addition, Tomes discloses a second electrical contact disposed on an opposing second end of said enclosure (Fig. 3, item

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44). Lee discloses that the device will indicate the relative location of a dog and whether the dog is tracking or on point regardless of the orientation of the device (parag 0006, Ins 1-4). Thus, as implied by Applicant, it would have been obvious that any orientation of the device (such as the longitudinal axis of the switch parallel to the dog's backbone) located on the dog will serve the purpose of its intended use.

For claim 18, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 7 as stated above.

For claim 20, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 9 as stated above.

9. Claims 15, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565) and Tomes (US 4,349,809), further in view of Sloan et al. (US 3,336,530).

For claim 15, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 2 as stated above.

For claim 21, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 10 as stated above.

For claim 22, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 11 as stated above.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565), Tomes (US 4,349,809), and Sloan et al. (US 3,336,530), as applied to claim 15, and further in view of and further in view of Vogt (US 4,853,685).

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The claim is interpreted and rejected for the same reasons as stated in the rejection of claim 3 as stated above.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Tomes (US 4,349,809), as applied to claim 14, and further in view of Murai (US 4,234,876).

The claim is interpreted and rejected for the same reasons as stated in the rejection of claim 6 as stated above.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Tomes (US 4,349,809), as applied to claim 14, and further in view of Grassano (US 4,681,303).

The claim is interpreted and rejected for the same reasons as stated in the rejection of claim 8 as stated above.

13. Claims 24 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565) and further in view of Tomes (US 4,349,809).

For claim 24, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 1 and 14 as stated above.

For claim 5, the prior art admitted by Lee does not necessarily disclose the electrical contacts on the longitudinal axis of the vibration switch; however, Tomes discloses this feature (Fig. 2; Fig. 3, item 44). It would have been obvious that the contacts are placed on the longitudinal axis of the switch so that false readings are avoided.



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14. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over and Lee (US 10/643,565) and further in view of Tomes (US 4,349,809).

The claim is interpreted and rejected for the same reasons as stated in the rejection of claim 1 as stated above. In addition, the prior art admitted by Lee discloses an electrically conductive mass member free to move within an enclosure. Tomes discloses a first electrical contact disposed proximate to a first end of an enclosure, said first electrical contact electrically isolated from a sidewall, the first electrical contact and said sidewall being placed in electrical communication when said mass member engages said first electrical contact, and a second electrical contact disposed proximate to a second end of an enclosure, said second electrical contact electrically isolated from a sidewall, the second electrical contact and said sidewall being placed in electrical communication when said mass member engages said second electrical contact (col 3, lns 10-24 and 41-51).

### ***Response to Arguments***

15. Applicant's arguments, see "Remarks" page 8, paragraph 2, filed May 3, 2005, with respect to the rejection of claims 1 under **35 USC § 102** have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art combined with prior art admitted by Applicant.

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***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Stone whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone  
June 2, 2005

  
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SUPERVISORY PATENT EXAMINER  
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